



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 10, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0144

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Inconclusive

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant, a Black woman, alleged that Named Employee #1 (NE#1) was biased against her due to her race and gender. The Complainant alleged that NE#1 issued her an unwarranted traffic ticket because he disliked her.

ADMINISTRATIVE NOTE:

On September 7, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

Pursuant to the OPA Internal Operations and Training Manual, Section 7.1, OPA findings are evaluated based on a preponderance of the evidence standard. To sustain a finding, OPA must prove that an officer more likely than not committed the alleged misconduct.

SUMMARY OF INVESTIGATION:

On March 31, 2023, the Complainant filed an online OPA complaint. The Complainant wrote that she called 9-1-1 after she was involved in a traffic accident, and NE#1 responded. The Complainant alleged NE#1 "did not address [her] as the 9-1-1 caller but when [sic] straight to the get the opposing party's side." The Complainant described NE#1 as "curt at most." The Complainant wrote that NE#1—through his partner—cited her for inattentiveness. The Complainant alleged NE#1 conducted an improper investigation and may have been influenced by her race and gender: "I am not sure how much my race and gender accounts for anything, but I wouldn't be surprised if non-black/non-female persons were in this same situation, they would not have received a ticket. This is unacceptable!"

OPA opened an investigation. During its investigation, OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call report, incident report, Police Traffic Collision Report (PTCR), Seattle Municipal Codes (SMC) 11.58.008 and 11.55.010, the traffic citation, and body-worn video (BWV). OPA also interviewed the Complainant and NE#1.



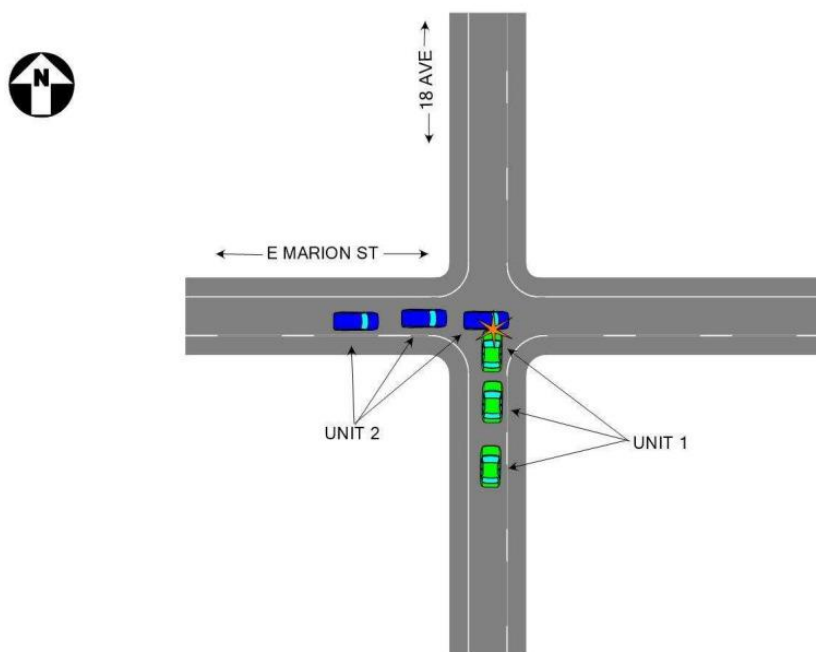
a. CAD Call Report, Incident Report, and PTCR

The CAD call report showed that NE#1 and Witness Officer #1 (WO#1) responded to a motor vehicle collision on March 31, 2023. The Complainant was the 9-1-1 caller.

NE#1 documented his response to the incident in an incident report and a PTCR. The incident report's narrative mirrored the PTCR. NE#1 documented responding to a motor vehicle collision between the Complainant and Community Member #1 (CM#1). NE#1 wrote that CM#1 traveled eastbound through an intersection when the Complainant's vehicle struck his passenger side door. NE#1 wrote that CM#1 reported traveling 15 miles per hour. NE#1 noted that WO#1 spoke with the Complainant, who said CM#1 was speeding before the collision as she drove northbound. NE#1 wrote that both parties provided insurance information. NE#1 wrote that the Complainant was told she would be cited for inattention. However, in his final paragraph, NE#1 wrote:

While screening the collision with [a supervisor], it was discovered that the ticket given to [the Complainant] was an error. The discrepancy was addressed. [CM#1] was issued a ticket for failure to yield to the right of way to the motorist, [the Complainant], in the intersection.

The PTCR contained the following diagram:



*Diagram from PTCR. Unit 1, in green, represents the Complainant's vehicle.
Unit 2, in blue, represents CM#1's vehicle.*



b. SMC 11.58.008 and 11.55.010

OPA reviewed the two SMC ordinances NE#1 cited. NE#1 initially cited the Complainant for violating SMC 11.58.008 (Inattention) and later for violating SMC 11.55.010 (Right-of-way of vehicles approaching an intersection).

SMC 11.58.008 reads:

No person shall operate a vehicle in an inattentive manner over and along the streets, alleys, or ways open to the public of this City. For the purpose of this section, "inattentive manner" means such a manner so as to fail to maintain a careful lookout for persons or property in the direction of travel.

SMC 11.55.010 reads:

A. When two vehicles approach or enter an uncontrolled intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

c. Complainant's Traffic Citation

OPA reviewed the citation. It cited the Complainant for Driving Inattention under SMC 11.58.008. The narrative section contained portions of the narrative from the PTCR and incident report but did not have the final paragraph referencing the Complainant's ticket being given "in error."

d. BWV

BWV captured NE#1's interactions with the Complainant and CM#1.

NE#1 arrived on the scene and approached the Complainant's and CM#1's vehicles. CM#1's vehicle was closest to him. The Complainant's vehicle was behind CM#1's vehicle. The Complainant stood in the street behind CM#1's vehicle on the driver's side. NE#1 spoke with CM#1, who was in the driver's seat. NE#1 gathered CM#1's account. While NE#1 spoke with CM#1, NE#1 told the Complainant, "I can talk to you in a second. If you want to go inside." Generally, CM#1 said he was proceeding cautiously eastbound at fifteen miles per hour and was already "quite a ways through the intersection" when the Complainant hit his vehicle's passenger side. CM#1 gave NE#1 his driver's license, registration, and insurance certificate.



*CM#1's van with a damaged front passenger door.
The Complainant's gray sedan with a damaged front bumper.*

WO#1 arrived. NE#1 asked WO#1 to speak with the Complainant.

NE#1 then borrowed WO#1's cell phone to take evidentiary photographs. While NE#1 photographed the Complainant's vehicle, the Complainant spoke to NE#1. NE#1 kept photographing, then asked, "Do you have insurance?" The Complainant responded affirmatively, and NE#1 asked, "Have you called your ah...tow truck?" The Complainant responded, "No. This just happened." NE#1 asked, "Is it drivable? Do you think?" The Complainant responded, "I don't know. My battery is hanging almost to the fucking floor." NE#1 replied, "So I'm...I'm gonna call a tow truck." The Complainant asked, "Call a tow truck for who? Is it going to cost me money?" NE#1 responded, "Yeah, your insurance, yeah." The Complainant replied, "Also, I want as in-depth of a statement as this motherfucker too."

NE#1 then walked to WO#1's vehicle and asked WO#1, "So, what did she say?" WO#1 provided NE#1 with the Complainant's version of events. Generally, WO#1 told NE#1 that the Complainant said she had stopped before going through the intersection because of a garbage truck, but as she went around the garbage truck, she came to the intersection when CM#1 "darted out in front of her" causing the Complainant to hit CM#1. NE#1 responded, "Yeah, he said he was going fifteen miles an hour. And obviously, he was like halfway through the intersection ... 'cause he obviously got T-boned. So, he was in there before she was." NE#1 and WO#1 discussed whether the Complainant had insurance. WO#1 stated the Complainant was looking for her insurance number. NE#1 said, "Okay, because she's not really ... She probably doesn't have insurance, but you never know."¹

¹ It is not perfectly clear from BWV whether NE#1 stated "doesn't have insurance" or "does have insurance." In his OPA interview, NE#1 said his statement was "that she probably didn't have insurance." OPA finds that NE#1 said, "She probably doesn't have insurance, but you never know."



NE#1 returned to the speak with CM#1 and the Complainant. NE#1 asked the Complainant if she had personal belongings in the car. The Complainant responded, "I'm going to try to drive it. I need something to pull the fucking bumper off the ground." NE#1 replied, "You say you're going to try and drive it?" The Complainant said she lived only about three blocks away. NE#1 said, "Okay, 'cause we got a ... if you can't drive, we got a tow truck coming in twenty-five minutes. So, if you're able to somehow move it or somehow do something with the bumper ... secure it ... and then you could ..." The Complainant responded, "Does it look like I would be prepared to do that? You're annoying me. Can I talk to him? [referencing WO#1]. You annoy me. Like, you literally are like the most annoying person I've ever met."

NE#1 spoke with WO#1. NE#1 said, "She doesn't want to talk to me, clearly. Just to let her know we're going to give her a ticket ..."

While speaking with WO#1, the Complainant asked whether an officer other than NE#1 could write the report. WO#1 asked why. The Complainant said:

Because first of all, I'm the one who called the cops. And he didn't even acknowledge me and talked to that person first. And like ... like he just seems like he's just adverse. Anyway, like he didn't even know there was a person there. Like, why the fuck else would I be standing here? Like, I'm the one who placed the call. I just don't trust him. Hell, I don't trust you. But unfortunately, I have to do this. So, I just wanted the clearest fucking record possible. I know how that goes. Whatever you put in there or don't put in there ... like whatever. So, I want a separate one if I can have one, please.

WO#1 replied that the report would be based on "the whole incident," including statements from both parties.

WO#1 asked NE#1 if he told the Complainant she would get a ticket. NE#1 said no. NE#1 and WO#1 waited while CM#1 attempted to change his flat tire. As the Complainant prepared to drive away, WO#1 told her she would probably receive an infraction for inattention. The Complainant parked her vehicle nearby.

e. OPA Interview – Complainant

OPA interviewed the Complainant. The Complainant's allegations were consistent with her complaint.

The Complainant said rather than identifying and consulting the 9-1-1 caller, NE#1 went "immediately to consult the other driver." The Complainant was "pretty frustrated" with NE#1, so she spoke with WO#1 instead. The Complainant alleged NE#1 also "threatened" her with another ticket for driving a "vehicle [that] was unsafe for the road."

Generally, the Complainant felt that her citation was "not based on the factual circumstances" but on NE#1's "emotion" or "dislike" of the Complainant because she was a Black woman.



Moreover, the Complainant was concerned because she called 9-1-1, but NE#1 did not acknowledge her presence and immediately went to CM#1, a white male. Additionally, the Complainant said NE#1 instructed WO#1 to interview her.

After her initial OPA interview, the Complainant called OPA and provided additional information. The Complainant said she received the citation in the mail but was confused since the report stated her ticket was in error.

f. OPA Interviews – NE#1

OPA interviewed NE#1 twice. During the first interview, NE#1 said the Complainant seemed “agitated and upset” when he arrived. NE#1 said the Complainant tried to speak with him when he was speaking with CM#1. NE#1 said, “She just seemed upset. I believe everybody that gets in an accident is upset, so she just seemed upset.” NE#1 said the Complainant’s tone of voice and facial expressions indicated anger. NE#1 also said, “I kept trying to talk to her, and she did say that I was being annoying and she ... I was the most annoying person she ever met.” NE#1 said, as a result, he asked WO#1 to take the Complainant’s statements and inform her she would receive a ticket to avoid escalating the situation.

NE#1 said he approached CM#1 first because his vehicle was closest to him. NE#1 said he was initially unsure whether the Complainant was an involved driver. NE#1 also noted that CM#1’s vehicle blocked the roadway, which NE#1 wanted to clear.

NE#1 said he had WO#1 interview the Complainant so he could finish taking CM#1’s statement. NE#1 said the Complainant was later uninterested in speaking with him. NE#1 said continuing to engage the Complainant would have escalated the situation.

NE#1 denied bias. NE#1 also denied ignoring the Complainant. He said that when he tried to engage her, she did not want to speak with him and called him “the most annoying person she ever met.”

NE#1 described his decision-making process for initially citing the Complainant. NE#1 noted the location of vehicle damage, specifically that the Complainant’s front bumper was damaged, and CM#1’s passenger-side door was damaged. NE#1 said the physical evidence suggested that CM#1 was in the intersection when the Complainant collided with CM#1. However, NE#1 said he and a supervisor later determined that NE#1’s original decision was mistaken. NE#1 said he could not immediately void the ticket because it was entered into the SECTOR system, which did not allow officers to void tickets directly.² NE#1 believed the supervisor would “email somebody” to void the ticket.

OPA interviewed NE#1 on a second occasion to clarify his remark to WO#1 that the Complainant “probably doesn’t have insurance, but you never know.” NE#1 denied this statement was based on bias. NE#1 stated he made this statement because the Complainant was not immediately forthcoming with her insurance information. NE#1 said that, in his experience, when people try to “stall or beat around the bush,” they typically do not have insurance, even when

² The “SECTOR” system refers to the Statewide Electronic Collision & Ticket Online Records program. SECTOR is a standalone program that “automates the collision and traffic citation reporting process for law enforcement officers.” It is used collaboratively with state and local law enforcement throughout the Washington State. Each local agency designates a system administrator to manage the user accounts. See SECTOR Training & Information, Washington Association of Sheriffs & Police Chiefs, *available at* <https://www.waspc.org/sector-training-information>.



they say they do. NE#1 said drivers with insurance typically provided proof quickly. NE#1 said that since WO#1 was already back in his vehicle when they had the discussion, he assumed the Complainant did not have insurance.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

The Complainant alleged NE#1 engaged in bias-based policing against her because she was a Black woman.

SPD policy prohibits biased policing, defined as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatments based on the race and/or gender of the subject. *See id.*

OPA cannot conclude by a preponderance of the evidence whether NE#1 treated the Complainant differently due to her race and/or gender. While NE#1 did not do or say anything that overtly expressed bias, the Complainant identified several issues that she alleged were suggestive of bias. The Complainant alleged NE#1 (1) ticketed her erroneously, (2) spoke with CM#1 first, (3) did not acknowledge her, and (4) threatened to ticket her for the condition of her vehicle. Additionally, OPA questioned NE#1’s statement to WO#1, speculating whether the Complainant had insurance.

Overall, NE#1 provided plausible race- and gender-neutral explanations for each item. NE#1’s original determination that the Complainant was at fault—while wrong—was not unreasonable. Traffic signs did not control the intersection where the collision occurred. Also, the damage to the two vehicles did show that CM#1’s vehicle most likely entered the intersection appreciably before the Complainant. Ultimately, under SMC 11.55.010, CM#1 should have ensured the intersection was clear to his right before entering—he did not and was at fault. A supervisor made NE#1 aware of this error, and NE#1 documented this mistake in his incident report and PTCR.³

OPA finds NE#1’s explanation that he approached CM#1 first because it was the closest plausible. NE#1 could not take statements from the parties simultaneously, so NE#1 had WO#1 take the Complainant’s as soon as WO#1 arrived. Relatedly, NE#1 did acknowledge the Complainant but informed her that he would speak to her once he finished speaking with CM#1. Later, when NE#1 spoke with the Complainant, the Complainant expressed her desire to speak with WO#1 instead. Also, OPA’s review of BWV showed NE#1 did not threaten to issue the Complainant a citation because of the condition of her vehicle. Instead, NE#1 told the Complainant that a tow truck was coming and she would need to secure her bumper before moving her vehicle. OPA questioned NE#1 about his statement, “She probably doesn’t have insurance, but you never know.” OPA finds NE#1’s explanation plausible: that he based it on the Complainant’s inability to provide proof of insurance quickly.

Given plausible allegations from the Complainant and explanations from NE#1, OPA can neither find NE#1 violated SPD’s bias-free policing policy nor can it find these allegations are unfounded.

³ OPA notes that it emailed NE#1 the Notice of Receipt of Complaint for this case on April 4, 2023, at about 7:23 AM. The Incident Report shows a completion time and date of April 4, 2023, at about 12:15 PM. The PTCR did not have a completion time or date. The ticket issued to the Complainant was signed on March 31, 2023, and did not contain a statement about the ticket being issued in error.



Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**